

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO.: 3294-01
BILL NO.: HB 1517
SUBJECT: Drunk Driving: Crimes and Punishment
TYPE: Original
DATE: February 23, 2000

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
General Revenue	\$0	\$0	(\$27,919)
Highway Fund	\$12,971	\$90,472	\$90,472
Total Estimated Net Effect on <u>All</u> State Funds	\$12,971	\$90,472	\$62,553

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Local Government*	\$11,925 to (Unknown)	\$35,652 to (Unknown)	\$35,652 to (Unknown)

***Does not include unknown income resulting from forfeitures allowed by this proposal.**

Numbers within parentheses: () indicate costs or losses
This fiscal note contains 8 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials of the **Missouri State Highway Patrol, Missouri State Water Patrol, Division of Highway Safety** and the **Office of Prosecution Services** assume this proposal would have no fiscal impact to their agencies. In response to previous versions of this proposal, officials of the **Office of Administration - Division of Accounting** and the **Office of the Attorney General** assumed this proposal would have no fiscal impact to their agency.

In response to a similar proposal, officials of the **Missouri Department of Transportation (MoDOT)** stated that this proposal would not fiscally impact their agency. However, according to the National Highway Traffic Safety Administration, a state must pass a .08 BAC law in order to be eligible for additional federal funding that could be used for highway safety or highway construction programs. This .08 BAC law must replace either the .10 BAC laws on the books or be the threshold for a determination of a DWI. The federal funding available depends on the number of eligible states. The total amount authorized for such grants is \$90 million in FY 2001, \$100 million in FY 2002, and \$110 million in FY 2003.

Officials of the **State Courts Administrator (CTS)** assume this proposal would: extend to all cities the forfeiture provisions now applicable to Greene County; lower the BAC standard to .08; extend the drivers' license suspension and revocation period for DWI offenders; create the crime of "vehicular homicide by an intoxicated person"; and, prohibit an SIS or SES for certain alcohol-related municipal law violations.

CTS officials assume there would be some increase in the number of DWI and BAC cases filed; however, the number would not be great enough to impact the budget of the judiciary. Some cases could be prolonged, and there will be an increase in local jail populations.

Officials of the **State Public Defender (SPD)** assume that existing staff could provide representation for those 50-75 cases arising where indigent persons were accused of "DWI with .08% BAC." However, passage of more than one similar bill would require the SPD system to request increased appropriations to cover the cumulative cost of representing the indigent accused in the additional cases.

Officials from the **Department of Revenue (DOR)** assumes this proposal will increase the number of alcohol related convictions and administrative alcohol arrests reported to the Drivers License Bureau (DLB). In order to process this increased workload, the DLB will require four (4) hours of Clerk Typist II overtime per day, for a total cost of \$12,159 in FY 01 and \$14,591 in FY 02 and 03.

ASSUMPTION (continued)

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The DLB estimates 5,730 additional notices of suspension or revocation, correspondence, reinstatement notices, and other miscellaneous documents will be mailed as a result of the reduction of the blood alcohol threshold. Additional postage costs in FY 01 are estimated at \$1,575 and \$1,891 in FY 02 and 03. (5,730 mailing x .33 = \$1,891)

In addition, postage will be required in order to mail the new form stocks outlined below to law enforcement agencies. The Drivers License Bureau will supply the Missouri State Highway Patrol (MSHP) with 40,000 copies of each form for distribution to the MSHP Troops. The DLB will mail the remaining 60,000 to the remaining 663 law enforcement agencies throughout the state. Total cost for mailing forms is \$3,070. This will be incurred for FY 01 only.

Total Postage Costs

FY 01 = \$4,645 (\$1,575 + \$3,070)

FY 02 & 03 = \$1,891

The DLB will be required to replace all existing stocks of forms to law enforcement agencies. This will require the printing of 100,000 Alcohol Influence Reports (AIR) and 100,000 Notices of Suspensions (form DOR-2389) for a total anticipated cost of \$6,000 in FY 01.

100,000	AIR Forms
x .04	Cost per form
\$4,000	
+	
100,000	DOR-2389
x .02	Cost per form
\$2,000	

\$6,000 Total Forms Cost FY01

Additional suspension and revocation actions will be imposed as a result of the lower blood alcohol content threshold. The DLB estimates 3,169 additional reinstatements per year based on current reinstatement statistics on administrative alcohol actions and point suspensions and revocations resulting from an alcohol conviction. This results in total revenue of approximately \$47,700 in FY 01 and \$142,605 in FY 02 and 03 to be split between Highway Fund, Cities and CART. The calculation follows:

ASSUMPTION (continued)

FY 01

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1,060	Total reinstatements (4 months of yearly total due to 60/120 Sus/RDP period)
x \$45	Reinstatement Fee
\$47,700	

FY 02 & 03

3,169	Total reinstatements (4 months of yearly total due to 60/120 Sus/RDP period)
x \$45	Reinstatement Fee
\$142,605	

FY 01

\$35,775	Highway Fund
\$7,155	Cities
\$4,770	Counties

FY 02 & 03

\$106,954	Highway Fund
\$21,391	Cities
\$14,261	Counties

Based on a response from a similar proposal in 1999, officials of the **Department of Corrections (DOC)** assume the language that describes the vehicular homicide offense in this proposal is similar to that in current Section 565.024 that describes involuntary vehicular manslaughter, which is punishable as a class C felony. The DOC received 14 persons over a three-year period (1994-96, inclusive) for involuntary vehicular manslaughter or an average of five per year. The average prison stay over those three years for those offenders prior to release was 30 months. DOC officials assume any fiscal impact from this proposal in FY's 01 and 02 could be absorbed within existing resources.

DOC officials stated the penalty provision for the new crime would be for a class B felony with a minimum incarceration time of 10 years. To estimate the potential impact, the DOC reviewed release information over a three-year period (1994-96, inclusive) for persons sentenced for voluntary manslaughter, (a class B felony involving similar criminal conduct). Over those three years these offenders served an average 57.5 months, including releases to shock probation. The ASSUMPTION (continued)

effect of the ten-year minimum sentence required under this legislation was assumed to raise the average prison stay to 72 months. The estimated impact was predicated on the DOC receiving 5 commitments per year who would serve 72 months rather than 30 months in prison for a similar

offense. DOC officials would expect three extra inmates due to this statute, resulting in total anticipated cost of \$27,919 in FY03.

The DOC cannot predict the number of new commitments and/or supervision costs which could result from the lowering of the BAC outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court. If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC would incur a corresponding increase in operational costs either through incarceration (average of \$35.00 per inmate, per day) or through supervision provided by the Board of Probation and Parole (average of \$3.50 per offender, per day). Supervision by the DOC through probation or incarceration would result in some additional costs but it was assumed that the estimated impact would be minimal and could be absorbed for the offenses affected by lowering the BAC criteria.

Based on assumptions outlined below, the long-range fiscal impact is as follows:

	End FY Population	Average Population	Operating Expenses	Total Cost w/ Inflation
FY 2004	8	6	76,650	86,270
FY 2005	13	11	140,525	162,907
FY 2006	18	16	204,400	244,064
FY 2007	18	18	229,950	282,809
FY 2008	18	18	229,950	291,294
FY 2009	18	18	229,950	300,033
FY 2010	18	18	229,950	309,034
		Total Ten-Year	Fiscal Impact:	\$ 1,704,330

Oversight assumes there would be unknown income to municipalities from the forfeiture provisions in this proposal. Oversight also assumes that local jail populations could be affected by mandatory sentencing outlined in this proposal, and have shown the fiscal impact to be \$0 to (unknown).

FISCAL IMPACT - State Government

FY 2001

FY 2002

FY 2003

GENERAL REVENUE FUND

Cost - Department of Corrections (DOC)

PMM:LR:OD:005 (9-94)

Increased incarcerations	\$0	\$0	(\$27,919)
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HIGHWAY FUND

Income - Department of Revenue

Reinstatement fees	\$35,775	\$106,954	\$106,954
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Cost - Department of Revenue(DOR)

Overtime Pay - Clerk Typist II	(\$12,159)	(\$14,591)	(\$14,591)
Forms and Postage Costs	(\$10,645)	(\$1,891)	(\$1,891)
Total <u>Costs</u> - DOR	(\$22,804)	(\$16,482)	(\$16,482)

ESTIMATED NET EFFECT TO HIGHWAY FUND

<u>\$12,971</u>	<u>\$90,472</u>	<u>\$90,472</u>
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FISCAL IMPACT - Local Government

FY 2001	FY 2002	FY 2003
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Income - Municipalities

Forfeitures	Unknown	Unknown	Unknown
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Income - Political Subdivisions

Reinstatement fees			
Cities	\$7,155	\$21,391	\$21,391
Counties	\$4,770	\$14,261	\$14,261
Total <u>Income</u> - Political Subdivisions	\$11,925	\$35,652	\$35,652

Cost - Local Jails

Increased jail time	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
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ESTIMATED NET EFFECT ON LOCAL FUNDS*

<u>\$11,925</u>	<u>\$35,652</u>	<u>\$35,652</u>
<u>to</u>	<u>to</u>	<u>to</u>
<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

***Does not include unknown income resulting from forfeitures allowed by this proposal.**

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

PMM:LR:OD:005 (9-94)

This proposal enhances the penalties for alcohol-related driving offenses. The proposal:

- (1) Makes a person guilty of the crime of driving with excessive blood alcohol content if the person operates a motor vehicle with .08% or more blood alcohol content. Under current law, .10% or more blood alcohol content is required for violation of this provision (Section 577.012);
- (2) Provides procedures for suspending and revoking the driver's license of persons who are stopped for driving with .08% or more blood alcohol content (Sections 302.302, 302.304, 302.510, 302.520, 302.541);
- (3) Increases the period of driver's license suspension for alcohol-related driving offenses. The driving privileges of a person with no prior alcohol-related driving offenses in the preceding 5 years will be suspended for 60 days, followed by 120 days of restricted driving privileges. An offender with a prior alcohol-related driving offense within the preceding 5 years suffers a driver's license suspension of 2 years. Under current law, an offender with no prior alcohol-related driving offenses in the preceding 5 years receives a driver's license suspension for 30 days followed by a 60 day period of restricted driving. A prior alcohol-related driving offender's driving privileges are currently suspended for one year (Sections 302.304, 302.525);
- (4) Requires a person convicted of or who has pled guilty to 2 or more alcohol-related municipal violations within one year to serve a minimum sentence of 60 days incarceration (Section 577.012);
- (5) This proposal would make it a class B felony to commit the crime of vehicular manslaughter by an intoxicated person. Vehicular manslaughter by an intoxicated person would be defined as the criminally negligent act of operating a motor vehicle while intoxicated that caused the death of any person. Under current law, the operation of a motor vehicle in an intoxicated condition resulting in the death of another person is deemed involuntary manslaughter, a class C felony carrying maximum prison term not to exceed 7 years. The sentencing range for a class B felony is not less than 5 years and not more than 15 years.
- (6) This proposal would allow any municipality to enact ordinances permitting the forfeiture of any motor vehicle operated by (a) a person with one or more prior convictions for an DESCRIPTION (continued)
intoxicated-related traffic offense; (b) a person prohibited from obtaining a license to operate a motor vehicle by the Director of Revenue; or (c) a person who had a license suspended or revoked as a result of a finding or a plea of guilty to any intoxication-related traffic offense or to involuntary manslaughter while operating a motor vehicle in an intoxicated condition. Under current law, the city of Springfield is the only municipality with these forfeiture provisions.

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(7) This proposal would also make a person guilty of operating a vessel with excessive blood alcohol content, if the person operated a vessel on state waterways with .08% or more blood alcohol content.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Attorney General
State Courts Administrator
Department of Revenue
Missouri State Highway Patrol
Missouri State Water Patrol
Missouri Division of Highway Safety
Office of Prosecution Services
Department of Corrections
State Public Defender
Office of Administration - Division of Accounting

A handwritten signature in black ink, appearing to read "Jeanne Jarrett".

Jeanne Jarrett, CPA
Director
February 23, 2000